

ORDER AMENDING LOCAL RULES OF PRACTICE
FOR THE CIRCUIT AND SUPERIOR COURTS
26TH JUDICIAL CIRCUIT, ADAMS COUNTY, INDIANA

Pursuant to the requirements of Administrative Rule 15 and Trial Rule 81 of the Indiana Rules of Trial Procedure IT IS HEREBY ORDERED that the following Local Rules of Practice in the Circuit And Superior Courts of the 26th Judicial Circuit, Adams County, Indiana, regarding Assignment of Criminal Cases, Change of Venue and Related Matters and Local Caseload Rule be and the same is hereby amended herein.

The Courts find that pursuant to Trial Rule 81(D) good cause exists to deviate from the schedule established by the Division of State Court Administration for the adoption of the local rule amendment. These Local Rules regarding Local Caseload Rule and the Assignment of Criminal Cases, Change of Venue and Related Matters shall be effective July 31, 2006 or when approved by the Indiana Supreme Court if required.

The Clerk of the Adams Circuit and Superior Courts shall post these rules in their office and on their website, if any, for a period of thirty (30) days commencing immediately. Local Rule regarding Assignment of Criminal Cases, Change of Venue and Related Matters and the Local Caseload Rule previously adopted are repealed.

ORDERED THIS 7th day of July, 2006.

S/James A.Heimann
James A. Heimann, Judge
Adams Superior Court

S/Frederick A. Schurger
Frederick A. Schurger, Judge
Adams Circuit Court

STATE OF INDIANA

IN THE ADAMS CIRCUIT COURT
CASE NUMBER 01C01-0601-CB-0001

COUNTY OF ADAMS SS:

IN THE ADAMS SUPERIOR COURT
CASE NUMBER 01D01-0601-CB-0001

IN RE:
LOCAL RULES

AMENDED
LOCAL RULES REGARDING ASSIGNMENT OF CRIMINAL CASES,
CHANGE OF VENUE AND RELATED MATTERS

INTRODUCTION

The following rules have been adopted by the Judges of Adams Circuit Court and Adams Superior Court in compliance with Criminal Rules 2.2, 12 and 13. The undersigned Judges comprise all of the Judges in Adams County with jurisdiction in felony and misdemeanor cases and they have evaluated the past procedures and have assessed the needs of Adams County. The following local rules are hereby adopted:

LR01-CR2.2-01 --CASE ASSIGNMENT

(A) Misdemeanors and D Felonies: Unless otherwise provided in these rules, all cases wherein the most serious charge is a Class D Felony or a Misdemeanor shall be assigned to Adams Superior Court.

(B) All Felonies Except D Felonies: Unless otherwise provided in these rules, all cases wherein the most serious charge is greater than a Class D Felony shall be assigned to Adams Circuit Court. For example, if any felony greater than a Class D Felony is filed it shall be assigned to Adams Circuit Court along with any additional criminal charges regardless of whether or not those additional criminal charges are Class A Misdemeanors or Class D Felonies.

(C) Criminal Non-Support: All cases involving allegations of criminal non-support shall be assigned to the Court which had original jurisdiction of any filing of a Petition for Dissolution of Marriage, Dissolution Decree, Paternity Determination, or similar case filed. It is the objective of this provision to eliminate two Courts addressing the same party and related issues. If no prior case has been filed, such cases shall be filed in accordance with the rules previously set forth

(D) Protective Orders and Invasion of Privacy: If a Dissolution of Marriage is pending or has been granted to the parties or if a paternity action has been filed or has

been determined and subsequently one of the parties petitions for a protective order against the other party, said protective order shall be assigned to the Court which originally addressed the dissolution or paternity. The purpose of this policy is to assure that the same Court which has determined custody and visitation will also determine the terms of the protective order so that visitation can be assured while simultaneously the appropriate parties are protected. Therefore, any violation of a protective order (invasion of privacy) involving such parties shall likewise be filed in the Court originally addressing the dissolution or paternity and where the protective order was issued. It is the expressed desire of the Court to eliminate duplication and confusion in regards to multiple orders for various purposes involving the same parties.

(E) Pending Cases: Cases involving offenders who have charges pending in either Court, or prior convictions in either Court may be filed in that Court despite the provisions of Paragraphs (A) and (D).

LR01-CR2.2-CR-02 TRANSFER

(A) Circuit to Superior: A Judge of Adams Circuit Court, by appropriate order entered in the Record of Judgments and Orders, with the consent of the Judge of Adams Superior Court, may transfer and reassign any criminal case to Superior Court pursuant to the authority of I.C. 33-5-4.5-9.

(B) Superior to Circuit: A Judge of the Adams Superior Court, by appropriate order entered in the Record of Judgments and Orders, with the consent of the Judge of Adams Circuit Court, may transfer and reassign any criminal case to Circuit Court pursuant to the authority of I.C. 33-5-4.5-9.

LR01-CR2.2-CR-03 --REFILING AND SUBSEQUENT FILINGS

When the State of Indiana dismisses a case and chooses to refile that case, the case shall be assigned to the Court from which the dismissal was taken unless Local Rule 1 (above) regarding case assignment dictates otherwise. For example, a case may originally be filed as a Class D Felony Battery, later is dismissed, and subsequently is filed as Murder, a Class A Felony. Local Rule 1 in regard to case assignment shall take precedence and it shall be filed in Circuit Court

LR01-CR2.2-CR-04 --REASSIGNMENT

(A) Circuit Court: In the event a change of Judge is granted where it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Adams Circuit Court, the case shall be reassigned to Adams Superior Court.

(B) Superior Court: In the event a change of Judge is granted or it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Adams Superior Court, the case shall be reassigned to Adams Circuit Court.

(C) Alternative: In the event that a reassignment can not be accomplished pursuant to the rules set forth above, then by order of adoption of these rules, the Indiana Supreme Court, pursuant to I/C. 33-2.1-7-8 temporarily transfers the following named Judges to the Adams Circuit Court or Adams Superior Court for the purpose of reassignment of felony and misdemeanor cases and said individuals are as follows: the regular Judge of the Jay Circuit Court; the regular Judge of the Jay Superior Court; the regular Judge of the Wells Superior Court; and the regular Judge of the Wells Circuit Court. ~~Honorable Tom D. Diller, the Honorable Joel D. Roberts, the Honorable Everett E. Goshorn, and the Honorable David L. Hanselman, Sr.~~

In the event it becomes necessary to reassign a felony or misdemeanor case, the Judges will be reassigned in consecutive order to the above noted Judges.

LR01-CR2.2-CR-05 --APPOINTMENT OF SPECIAL JUDGE

In the event no Judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding Judge may request the Indiana Supreme Court for such appointment.

STATE OF INDIANA

IN THE ADAMS CIRCUIT COURT
CAUSE NO. 01C01-0601-CB-0001

COUNTY OF ADAMS SS:

IN THE ADAMS SUPERIOR COURT
CAUSE NO. 01D01-0601-CB-0001

AMENDED
ADAMS COUNTY CASELOAD RULE

WHEREAS, on July 16, 1999, the Supreme Court of Indiana issued an Order for Development of Local Caseload Plan.

WHEREAS, on September 2, 1999, the majority of Judges in District 3 met in an effort to comply with the Supreme Court's Order and to provide for an efficient method of resolving legal disputes arising in the District 3 counties.

WHEREAS, the undersigned Judges agreed to adopt a Uniform Local Rule complying with the District 3 Caseload Distribution Rule made September 2, 1999.

WHEREAS, the Adams Circuit Court currently has a newly appointed judge with the normal likelihood of unusual statistics following such appointment.

WHEREAS, the underutilized courts near or adjoining Adams County include Jay Circuit and Superior Court and Blackford County Court (which are in administrative District 6) but because of travel distance are among the most logical choices for Special Judge appointment of cases from Adams County courts.

NOW THEREFORE, the following Local Rules are adopted:

LR01-TR79-01 DEFINITIONS

1.1 "Over-utilized counties" – Counties in which, according to the most recent Weighted Caseload Measure (WCM), the judicial officers are being utilized at greater than the statewide average.

1.2 "Under-utilized counties" – Counties in which, according to the most recent WCM, the judicial officers are being utilized at more than twenty-five (25) percentage points below the statewide average.

1.3 "Other counties" – Counties in which, according to the most recent WCM, the judicial officers are being utilized at the statewide average, or within twenty-five (25) percentage points below the statewide average.

LR01-TR79-02

2.1 Whenever selection of a special judge is required under Trial Rule 76, Trial Rule 79(H), this shall be the exclusive method for selection of special judges.

2.2 In an “Over-Utilized County”, special judges shall be selected exclusively from a list of judicial officers presiding in courts in “Under-Utilized Counties.” To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Over-Utilized Counties”, based upon the 1998 WCLM, shall be as follows:

A. Special judges serving Allen County shall be selected from the nine (9) judicial officers sitting in Adams, LaGrange, Steuben and Wells counties;

B. Special judges serving DeKalb county shall be selected from the five (5) judicial officers sitting in LaGrange and Steuben counties;

C. Special judges serving Huntington County shall be selected from the four (4) judicial officers sitting in Adams and Wells counties.

2.3 In an “Under-Utilized County”, special judges shall be selected exclusively from a list of judicial officers sitting in other “Under-Utilized Counties”. To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Under-Utilized Counties”, based upon the 1998 WCLM, shall be as follows:

A. Special judges serving Adams County shall be selected from the other judicial officer sitting in Adams County and the two (2) judicial officers sitting in Wells County;

B. Special judges serving LaGrange County shall be selected from the other judicial officer sitting in LaGrange County and the three (3) judicial officers sitting in Steuben County.

C. Special judges serving Steuben County shall be selected from the other judicial officers sitting in Steuben County and the two (2) judicial officers sitting in LaGrange County;

D. Special judges serving Wells County shall be selected from the other judicial officer sitting in Wells County and the two (2) judicial officers sitting in Adams County.

2.4 In an “Other County”, special judges will be selected from counties which are similarly situated. To fairly and evenly distribute these assignments and to address

geographic considerations, appointment of special judges, based upon the 1998 WCLM, shall be as follows:

A. Special judges serving Noble County shall be selected from the other judicial officers sitting in Noble County and the two (2) judicial officers sitting in Whitley County;

B. Special judges serving Whitley County shall be selected from the other judicial officer sitting in Whitley County and the three (3) judicial officers sitting in Noble County.

2.5 Each judge in every court of District 3 shall maintain a list of judges available to serve as special judge in his or her court. The list shall remain confidential to the judge and his or her designated staff. The method for selection of a special judge from the list shall be sequential, that is, from top to bottom, until each judicial officer has been selected. No judicial officer appearing on the list shall be selected more than once until all judicial officers have been selected.

2.6 The special judge selected hereunder, shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).

2.7 By requesting a special judge, the parties specifically waive:

1) Selection of a special judge under Trial Rule 79(D), Trial Rule 79(E) and Trial Rule 79(F), and

2) Any objection to the transfer of the proceeding under Trial Rule 79(M) if the special judge should order same.

2.8 Each special judge, who receives a case hereunder, shall maintain a statistical record of the number, case type and disposition of each case received to quantify the additional caseload and shall report same to the Division of State Court Administration on a quarterly basis.

2.9 Each judge, who assigns a special judge hereunder, shall maintain a statistical record of the number and case type of each case assigned and shall report same to the Division of State Court Administration on a quarterly basis.

2.10 This rule applies only to selection of special judges in civil matters. It does not apply to the selection of special judges in criminal and juvenile matters.

2.11 The judges in District 3 shall meet on or before May 1 of each year to review the WCLM from the previous year, shall meet during the month of September in each year to review the impact of this rule and, no later than October 1 of each year, shall adopt a rule for the ensuing year.

2.12 All previous local rules adopted by the judge in District 3 regarding the selection of special judges in civil matters are repealed to the extent that they are inconsistent with this Rule.

2.13 This Rule shall be effective July 31, 2006 or upon approval by the Indiana Supreme Court if required.

LR01-TR79-03

3.1 In the event of the recusal or disqualification of the presiding Adams Circuit Court Judge, for decedent estate matters, the judge of the Adams Superior Court shall serve as special judge.

3.2 All decedent estate cases shall be filed in the Adams Circuit Court.

3.3 In the event of the recusal or disqualification of the presiding Adams Circuit Court Judge ~~for matters involving his previous Title IV D experience~~, a panel of judges consisting of the regular judge of the Jay Circuit Court, the regular judge of the Jay Superior Court, the regular judge of the Blackford Superior Court, the regular judge of the Wells Superior Court and the regular judge of the Wells Circuit Court ~~Honorable Tom D. Diller, Honorable Joel D. Roberts, Honorable John W. Foreum, Honorable Everett E. Goshorn; and the Honorable David L. Hanselman, Sr.~~ is created. Selection shall be done pursuant to TR 79(H). The method of selection from the list of special judges shall be that the Judge of the Adams Circuit Court shall maintain the list of the panel and upon such recusal or disqualification, going from top to bottom, select the special judge until each judge on the list has been selected once, before any one judge is selected twice, et cetera; provided however, that in the event one defendant has two or more cases, all such cases shall be assigned to the special judge first selected. This list shall remain confidential to the judge and designated staff. The special judge selected thereunder, shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).

3.4 The judges of Adams County shall meet at least ~~quarterly~~ annually to review the impact of these rules and in particular the balancing of caseloads between the Courts.

3.5 The Local Rules 3.1 through 3.5 shall be forwarded for review by the Indiana Supreme Court and upon approval of the Indiana Supreme Court these Rules shall become effective upon such approval.

ADAMS COUNTY
RULES OF COURT

LR01-TR79-04

This rule shall apply to the reassignment of cases and the selection of a senior judge in juvenile, paternity and domestic relation cases where there is an order of disqualification or recusal entered in the case in the Adams Circuit Court

After September 13, 1999 whenever the Judge of the Adams Circuit Court has a conflict of interest in any juvenile, paternity or domestic relations case which requires him to recuse himself because of prior contact with the case as Deputy Prosecuting Attorney, the case shall be assigned to Senior Judge Vern E. Sheldon for all further proceedings.

Senior Judge Vern E. Sheldon shall accept jurisdiction under the provisions of this rule unless disqualified under the Code of Judicial Conduct or excused from service by the Indiana Supreme Court. The reassignment of such case shall be entered in the Chronological Case Summary of the case. An oath or special order accepting jurisdiction shall not be required. Senior Judge Vern E. Sheldon shall retain jurisdiction of the case for all future proceedings unless a specific statute or rule provides to the contrary or the senior judge is unavailable by reason of death, sickness, absence, or unwillingness to serve. If further reassignment is required because of the retirement of Senior Judge Vern E. Sheldon and if a Senior Judge has been appointed to the Adams Circuit Court, such reassignment shall be to such successor Senior Judge. If further reassignment is required or the selection of a successor special judge or senior judge it shall be in the same manner as set forth in the rules of civil procedure.

DATED and ordered: July 7, 2006

S/James E. Heimann
James A. Heimann, Judge
Adams Superior Court

S/Frederick A. Schurger
Frederick A. Schurger, Judge
Adams Circuit Court